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1 A bill to be entitled
2 An act relating to certificates of need; transferring,
3 renumbering, and amending s. 651.1185, F.S.; extending the
4 moratorium on certificates of need for additional
5 community nursing home beds until July 1, 2011; specifying
6 nonapplication of a moratorium for the addition of nursing
7 home beds in certain specified facilities; providing
8 requirements and limitations; providing for repeal upon
9 expiration of the moratorium; amending s. 408.040, F.S.;
10 authorizing nursing homes in certain counties to request a
11 reduction in their annual Medicaid patient days; requiring
12 the Agency for Health Care Administration to automatically
13 grant such a request if the nursing home meets certain
14 conditions; providing for future repeal; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 651.1185, Florida Statutes, is
20 transferred, renumbered as section 408.0435, Florida Statutes,
21 and amended to read:

22 408.0435 ~~651.1185~~ Moratorium on nursing home certificates
23 of need.--

24 (1) Notwithstanding the establishment of need as provided
25 for in this chapter ~~408~~, a ~~no~~ certificate of need for additional
26 community nursing home beds may not ~~shall~~ be approved by the
27 agency until July 1, 2011 ~~2006~~.

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28 (2) The Legislature finds that the continued growth in the
29 Medicaid budget for nursing home care has constrained the
30 ability of the state to meet the needs of its elderly residents
31 through the use of less restrictive and less institutional
32 methods of long-term care. It is therefore the intent of the
33 Legislature to limit the increase in Medicaid nursing home
34 expenditures in order to provide funds to invest in long-term
35 care that is community-based and provides supportive services in
36 a manner that is both more cost-effective and more in keeping
37 with the wishes of the elderly residents of this state.

38 (3) This moratorium on certificates of need shall not
39 apply to sheltered nursing home beds in a continuing care
40 retirement community certified by the former Department of
41 Insurance or by the Office of Insurance Regulation pursuant to
42 chapter 651.

43 (4)(a) The moratorium on certificates of need does not
44 apply and a certificate of need for additional community nursing
45 home beds may be approved for a county that meets the following
46 circumstances:

- 47 1. The county has no community nursing home beds; and
48 2. The lack of community nursing home beds occurs because
49 all nursing home beds in the county that were licensed on July
50 1, 2001, have subsequently closed.

51 (b) The certificate-of-need review for such circumstances
52 shall be subject to the comparative review process consistent
53 with the provisions of s. 408.039, and the number of beds may
54 not exceed the number of beds lost by the county after July 1,
55 2001.

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57 This subsection shall be repealed upon the expiration of the
58 moratorium established in subsection (1).

59 (5) The moratorium on certificates of need does not apply
60 for the addition of nursing home beds licensed under chapter 400
61 to a nursing home located in a county having up to 50,000
62 residents, in a number not exceeding 10 total beds or 10 percent
63 of the number of beds licensed in the facility being expanded,
64 whichever is greater. In addition to any other documentation
65 required by the agency, a request submitted under this
66 subsection must:

67 (a) Certify that the facility has not had any class I or
68 class II deficiencies within the 30 months preceding the request
69 for addition.

70 (b) Certify that the prior 12-month average occupancy rate
71 for the nursing home beds at the facility meets or exceeds 94
72 percent and the facility had not had any class I or class II
73 deficiencies since its initial licensure.

74 (c) For a facility that has been licensed for less than 24
75 months, certify that the prior 6-month average occupancy rate
76 for the nursing home beds at the facility meets or exceeds 94
77 percent and that the facility has not had any class I or class
78 II deficiencies since its initial licensure.

79
80 This subsection shall be repealed upon the expiration of the
81 moratorium established in subsection (1).

82 (6) The moratorium on certificates of need does not apply
83 for the addition of nursing home beds licensed under chapter 400

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84 in a number not exceeding 10 total beds or 10 percent of the
85 number of beds licensed in the facility being expanded,
86 whichever is greater, if the facility meets the requirements of
87 paragraph (a).

88 (a) In addition to any other documentation required by the
89 agency, a request for the addition of beds under this subsection
90 must certify that:

91 1. The facility has not had any class I or class II
92 deficiencies within the 30 months preceding the request for
93 addition;

94 2. The prior 12-month average occupancy rate for the
95 nursing home beds at the facility meets or exceeds 96 percent;

96 3. The occupancy rate for nursing home beds in the
97 subdistrict is 94 percent or greater; and

98 4. Any beds authorized for the facility under this
99 subsection before the date of the current request for additional
100 beds have been licensed and operational for at least 12 months.

101 (b) A nursing home may request additional beds under this
102 subsection as an exemption from the provisions of s. 408.036(1).
103 The timeframes and monitoring process specified in s.
104 408.040(2)(a)-(c) apply to any exemption issued under this
105 subsection.

106 (c) The agency shall count beds authorized under this
107 subsection as approved beds in the published inventory of
108 nursing home beds until the beds are licensed.

109
110 This subsection shall be repealed upon the expiration of the
111 moratorium established in subsection (1).

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112 Section 2. Paragraph (d) of subsection (1) of section
113 408.040, Florida Statutes, is redesignated as paragraph (e), and
114 a new paragraph (d) is added to that subsection to read:

115 408.040 Conditions and monitoring.--

116 (1)

117 (d) If a nursing home is located in a county in which a
118 long-term care community diversion pilot project has been
119 implemented under s. 430.705 or in a county in which an
120 integrated, fixed-payment delivery system for Medicaid
121 recipients who are 60 years of age or older has been implemented
122 under s. 409.912(5), the nursing home may request a reduction in
123 the percentage of annual patient days used by residents who are
124 eligible for care under Title XIX of the Social Security Act,
125 which is a condition of the nursing home's certificate of need.
126 The agency shall automatically grant the nursing home's request
127 if the reduction is not more than 15 percent of the nursing
128 home's annual Medicaid-patient-days condition. A nursing home
129 may submit only one request every 2 years for an automatic
130 reduction. A requesting nursing home must notify the agency in
131 writing at least 60 days in advance of its intent to reduce its
132 annual Medicaid-patient-days condition by not more than 15
133 percent. The agency must acknowledge the request in writing and
134 must change its records to reflect the revised certificate-of-
135 need condition. This paragraph expires June 30, 2011.

136 Section 3. This act shall take effect upon becoming a law.